

EXHIBIT 4

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - -

STAR AUTO SALES OF : Civil Action No.:
BAYSIDE, INC. (d/b/a : 1:18-cv-05775-ERK-CLP
STAR TOYOTA OF :
BAYSIDE), STAR AUTO :
SALES OF QUEENS, :
LLC (d/b/a STAR :
SUBARU), STAR HYUNDAI :
LLC (d/b/a STAR :
HYUNDAI), STAR NISSAN, :
INC. (d/b/a STAR :
NISSAN), METRO :
CHRYSLER PLYMOUTH :
INC. (d/b/a STAR :
CHRYSLER JEEP DODGE), :
STAR AUTO SALES OF :
QUEENS COUNTY LLC :
(d/b/a STAR FIAT) and :
STAR AUTO SALES OF :
QUEENS VILLAGE LLC :
(d/b/a STAR :
MITSUBISHI), :

Plaintiffs, :

vs. :

VOYNOW, BAYARD, WHYTE :
AND COMPANY, LLP, HUGH :
WHYTE, RANDALL FRANZEN :
AND ROBERT SEIBEL, :

Defendants. :

- - -

FRIDAY, SEPTEMBER 23, 2022

- - -

(Caption continued on page 2.)

Job No. CS5366866

1 Star Nissan have audited financial statements?

2 A. I would think they have the right.

3 Q. Okay. Do you have a copy of your original
4 agreement from 1991?

5 A. Somewhere.

6 MS. FITZGERALD: Okay. So we'll make a
7 request for that to be produced since the witness
8 is unclear.

9 MR. FELSEN: If you have any requests, you
10 can --

11 MS. FITZGERALD: Yeah, I'm going to send
12 you a follow-up one.

13 BY MS. FITZGERALD:

14 Q. You mentioned that you prepare -- or your
15 monthly financial statements that are provided to Nissan
16 Corporation are prepared internally and provided monthly,
17 correct?

18 A. Uh-hum.

19 Q. You have to say yes.

20 A. Yes.

21 Q. Okay. So during the time of Voynow's
22 engagement, Voynow never prepared those monthly financial
23 statements that were provided to Nissan Corporation,
24 correct?

25 A. They never prepared them, but they did review

1 them.

2 Q. Okay. And on what basis do you contend that
3 Voynow reviewed monthly statements that your dealership
4 was sending to Nissan Corporation?

5 MR. FELSEN: Objection.

6 THE WITNESS: Could you repeat that,
7 please?

8 BY MS. FITZGERALD:

9 Q. Sure. On what basis are you testifying that
10 Voynow reviewed the monthly financial statements that
11 Star Nissan provided to Nissan Corporation?

12 MR. FELSEN: Objection.

13 THE WITNESS: Well, what does that mean?

14 MR. FELSEN: You can answer if you
15 understand.

16 THE WITNESS: Not clearly.

17 BY MS. FITZGERALD:

18 Q. Well, let me just break it down.

19 You just testify that you believe Voynow
20 reviewed the monthly financial statements that Star
21 Nissan provided to Nissan Corporation. So I'm asking you
22 --

23 A. They would review them quarterly.

24 Q. Okay. And, again, on what basis are you
25 claiming that Voynow reviewed the monthly financial

1 A. Yeah.

2 Q. Okay. Star Nissan, Incorporated opened an
3 account in June of 1997.

4 Do you see that?

5 A. Yeah. It also says Carmen here.

6 Q. Right. Do you have any reason to refute that a
7 Staples credit card account was opened in the name of
8 Star Nissan around June of 1997?

9 MR. FELSEN: Objection.

10 THE WITNESS: Not with my authority.

11 BY MS. FITZGERALD:

12 Q. I'm sorry?

13 A. Not with my authority.

14 Q. Okay. Are you aware that an account was opened
15 in Star Nissan's name at Staples?

16 MR. FELSEN: Objection. Asked and
17 answered. You can answer again.

18 THE WITNESS: I'm not -- I wasn't aware of
19 a credit card. I did sign checks for Staples as
20 the bills came in. But they would only read
21 office supplies, office supplies, office
22 supplies, office supplies with no detailed
23 information. And I signed the check.

24 BY MS. FITZGERALD:

25 Q. So understanding that you were receiving monthly

1 A. Yes.

2 Q. -- was your answer based on what Michael told
3 you?

4 A. Yes.

5 Q. Was it based on anything else other than what
6 Michael told you?

7 A. I trust him implicitly, and he's highly
8 qualified.

9 MR. FELSEN: Take a quick break.

10 - - -

11 (There was a brief recess in
12 the proceeding.)

13 - - -

14 BY MS. FITZGERALD:

15 Q. Okay. At any point did you ever raise any
16 concerns about potential theft or fraud in any of the
17 dealerships to Voynow?

18 A. No.

19 Q. Did you ever raise any concerns to Voynow about
20 any of the employees of any of the dealerships?

21 A. No.

22 Q. Now, you said that you believe that Voynow was
23 on site quarterly.

24 Is that what you believe?

25 MR. FELSEN: Objection. Asked and

1 answered.

2 THE WITNESS: Approximately.

3 BY MS. FITZGERALD:

4 Q. Okay. And when you say quarterly, what is your
5 recollection as to what months or approximate time
6 periods you believe that Voynow was there?

7 A. I couldn't tell you.

8 Q. Okay. Do you know if they were there at the end
9 of the year, in the middle of the year, spring, fall?
10 What's your recollection?

11 MR. FELSEN: Objection. Asked and
12 answered.

13 THE WITNESS: I'm not sure if it was on a
14 regular basis, on a regular schedule.

15 BY MS. FITZGERALD:

16 Q. Okay. How many times per year do you think they
17 were there?

18 MR. FELSEN: Objection. Asked and
19 answered.

20 THE WITNESS: Four times.

21 BY MS. FITZGERALD:

22 Q. All right. And what is that based on? Like is
23 that -- I mean, is that just based on your recollection
24 or is it based on something that you saw in some kind of
25 documentation?

JOHN KOUFAKIS

Page 95

1 Q. Do you recall receiving something from Voynow
2 that was in turn then passed on to a third party?

3 A. No. I just don't remember.

4 Q. Okay. It's possible. You just don't remember?

5 MR. FELSEN: Objection.

6 THE WITNESS: It's highly probable. I
7 don't see it signed.

8 BY MS. FITZGERALD:

9 Q. Did you ever receive engagement letters or
10 correspondence from Voynow directed to you for purposes
11 of Star Nissan matters?

12 A. Not that I recall.

13 MS. FITZGERALD: Let's mark this.

14 So off the record.

15 - - -

16 (There was a discussion held
17 off the record.)

18 - - -

19 BY MS. FITZGERALD:

20 Q. Okay. So we've just taken a break and you've
21 had time to confer with your counsel. I understand you
22 want to --

23 A. I confused the words on the tax return of, I
24 think it was 2016, "amended with file." Amended means
25 changed, but I don't know -- I guess file means it would

JOHN KOUFAKIS

Page 97

1 gone through in.

2 - - -

3 (Exhibit J-Koufakis-8 was
4 marked for identification.)

5 - - -

6 BY MS. FITZGERALD:

7 Q. All right. Let's put this one aside.

8 I'm showing you now Exhibit-8.

9 MR. FELSEN: Maureen, just before you ask
10 questions, other than this Exhibit-8, are there
11 any other documents that have been requested in
12 discovery that you're going to be attempting to
13 use today at a deposition?

14 MS. FITZGERALD: No.

15 Let's go off the record.

16 - - -

17 (There was a discussion held
18 off the record.)

19 - - -

20 BY MS. FITZGERALD:

21 Q. Okay. I'm showing you what we've marked as
22 Exhibit-8.

23 Do you recognize this document?

24 A. No.

25 MR. FELSEN: I'm just going to state for

JOHN KOUFAKIS

Page 98

1 the record that this document was just given to
2 us a few minutes ago. It was not produced prior
3 to today.

4 MS. FITZGERALD: Yeah. And I'll just add
5 to the record that counsel had made a request
6 informally, not a formal document request for
7 other engagement letters, and I just got
8 possession of this document yesterday afternoon.
9 I have this document and a few others that I'll
10 be getting to you early next week once I have the
11 opportunity for somebody to Bates stamp them.

12 BY MS. FITZGERALD:

13 Q. Okay. So if I understand your answer --

14 MS. FITZGERALD: What was the answer?

15 - - -

16 (There was a discussion held
17 off the record.)

18 - - -

19 BY MS. FITZGERALD:

20 Q. You recall receiving documents such as
21 Exhibit-8?

22 A. No, but had I, and if it would say star 3-0'd
23 it, they would immediately go to Michael.

24 Q. Okay. Did Star Nissan, to your knowledge,
25 prepare -- I'm sorry, did Voynow to your knowledge

1 Q. Okay. So going back to your question about
2 Voynow and car sales, are you claiming that part of
3 Voynow's responsibility was to review the sales of every
4 vehicle sold by the dealership?

5 MR. FELSEN: Objection. Asked and
6 answered.

7 THE WITNESS: No, but if there was a
8 receivable, like I said, that's an anomaly.

9 BY MS. FITZGERALD:

10 Q. Okay. If there was no receivable set up for
11 Carmen Jones' purchase would --

12 A. I would blame Vivian.

13 Q. Okay. You'd blame Vivian and not Voynow?

14 MR. FELSEN: Objection. Asked and
15 answered.

16 THE WITNESS: With all due respect --

17 MR. FELSEN: Hypothetical.

18 THE WITNESS: With all due respect, we've
19 given Voynow over a million and a half dollars,
20 and in my wildest dreams I never thought anything
21 like this would happen.

22 BY MS. FITZGERALD:

23 Q. Are you aware of any occasions where Voynow made
24 recommendations to the dealerships as far as things that
25 they could do to improve their business practice?

1 A. Yeah.

2 Q. What recommendations are you aware of?

3 A. Cleaning out the parts, outstanding parts
4 tickets. In other words, a customer would buy a part,
5 and a lot of them were good, common customers, and they
6 would tell you, well -- especially the collision guys --
7 they owed a couple thousand dollars worth of parts -- oh,
8 when I get the insurance check I'll pay you. There were
9 things like that. And used car inventory would get aged.

10 Q. So they would make recommendations to management
11 about things to do and follow up on?

12 A. Yes.

13 Q. And did management do that?

14 A. Yes.

15 Q. Okay. In making those recommendations, did you
16 understand that Voynow was not going to do that; it was
17 recommending that management do it?

18 A. Well, in those instances, they did their job and
19 reported these -- I'll call them anomalies and areas of
20 attention that need to be done.

21 Q. Was there ever any issue with Star Nissan and
22 theft in the parts department?

23 MR. FELSEN: Objection.

24 THE WITNESS: It's hard to say. It could
25 either be bad -- 'cause theft in parts department

JOHN KOUFAKIS

Page 187

1 Q. And who set that budget? Did you?

2 A. Uh-hum.

3 Q. Yes?

4 A. Yes.

5 Q. Okay. And you conveyed that budget verbally to
6 Gus?

7 A. Yes.

8 Q. And was it up to Gus to decide how that money
9 was going to be spent?

10 A. Yes.

11 Q. Okay. Was Gus authorized to enter into any
12 contract for services with an outside advertiser on
13 behalf of Star Nissan?

14 A. I do not enter into any written contracts with
15 anyone. If you don't trust me, let's not do business.
16 Those are my answers.

17 Q. Is that view held by your brothers and your
18 father as well?

19 MR. FELSEN: Objection.

20 THE WITNESS: I should hope so, but I
21 couldn't guarantee it. My answer is probably.

22 BY MS. FITZGERALD:

23 Q. All right. So when Gus -- did Star Nissan use
24 an outside person for advertising?

25 A. There was -- well, in most years there was an